Court No.2.

Writ Petition No. 506 of 2002 (M/B)

Ram Prakash Gupta ……. petitioner

Vs.

The General Manager,
Cattle Food Plant,
Kichcha by pass Road Rudrapur,
District Udham Singh Nagar
And one another ……. Respondent

……

Hon. P.C. Verma, A.C.J.
Hon. Irshad Hussain, J.

Heard Sri S. S. Yadav, learned counsel for the petitioner and Sri V.K. Bist, learned counsel for the respondent no.1.

This writ petition has been filed seeking a writ of certiorari to quash the acceptance of the tender of the respondent no.1 by the respondent no.1. The tenders were invited by the respondent no.1 for the various works to be done manually for various items. The number of manpower was different and the amount to be paid was also varying. After opening of the tenders, the respondent no.1 did not accept the tender of any of the tenderers and started procedure to settle by negotiations. In the negotiations, petitioner was also called. The negotiation was held with the petitioner alongwith respondent no.2. The reason has been stated in para 10 of the counter affidavit for the acceptance of tender of respondent no.2 that the rates for the work taken from the contractor in the previous year was made basis for the work taken from the contractor in the previous year was made basis for negotiation and this way, the rates given by respondent no.2 were less than the rates given by the petitioner. A chart is given in para 10 of the counter affidavit, which shows that in previous year, for various works the rate of the petitioners were Rs. 3,54,389/- whereas the rate of the respondent no.2 were Rs. 3, 33, 187/-. According to the statement, the lowest rates of the respondent no.2 were accepted for various items. In case, the contract was to be awarded to the petitioner, the respondent no.1 were to be put to loss of above Rs. 21,000/- on the basis of the rate offered by the petitioner.

Since the petitioner was called for negotiations and the contract has been awarded to the respondent no.2 after considering the rates shown by the parties and their conduct in the previous year, which was subject matter of discussion, in our

opinion the respondent no.1 has acted fairly in granting contract in favour of the respondent no.2. None of the principles have been shown to have been violated.

Learned counsel for the petitioner placed reliance in the reported case of Ram and Shyam Company Vs. State of Haryana and others (1985)3SCC 267 and laid stress on the following paragraph:

> "The appellant suffered an unfair treatment by the State in discharging its administrative functions whereby violating the fundamental principle of fair play in action. When he gave the highest bid, he could not have been expected to raise his own bid in absence of a competitor. Any expectation to the contrary betrays a woeful lack of knowledge of auction process. And then some one surreptitiously by a secret offer scored a march over him. No opportunity was given to him either to raise the bid or to controvert and correct the erroneous statement."

We have examined the facts of the present case with the ruling and find that no unfair treatment has been extended to the petitioner by not accepting his tender after negotiation. Rather, respondent no.1 has acted fairly. Therefore, we do not find any merit in the writ petition.

The petition is dismissed.

(P.C. Verma, A.C.J.) (Irshad hussain, J.)

Dt. 04.6.2003

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